

NOTICE OF OBJECTION TO CONFIRMATION

THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR REGISTERED HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-13 has filed papers with the Court to object to the Confirmation of the Chapter 13 Plan.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to object to the Confirmation of the Chapter 13 Plan, or if you want the Court to consider your views on the Objection, then on or before, you or your attorney must:

File with the Court an answer, explaining your position at:

**Clerk  
U.S. Bankruptcy Court  
402 E. State Street  
Trenton, NJ 08608**

If you mail your response to the Court for filing, you must mail it early enough so that the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

PHELAN HALLINAN DIAMOND & JONES, PC      ALBERT RUSSO, TRUSTEE  
1617 JFK BOULEVARD, SUITE 1400      CN4853  
PHILADELPHIA, PA 19103      TRENTON, NJ 08650

Attend the hearing scheduled to be held on 01/08/2020 in the TRENTON Bankruptcy Court, at the following address:

**U.S. Bankruptcy Court  
402 E. State Street  
Trenton, NJ 08608**

If you or your attorney do not make these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an Order granting that relief.

Date: December 4, 2019

/s/ Robert J. Davidow  
Robert J. Davidow, Esq.  
Phelan Hallinan Diamond & Jones, PC  
1617 JFK Boulevard, Suite 1400  
Philadelphia, PA 19103  
Tel: 856-813-5500 Ext. 47960  
Fax: 856-813-5501  
Email: Robert.Davidow@phelanhallinan.com

**File No. 832978**

Phelan Hallinan Diamond & Jones, PC

1617 JFK Boulevard

Philadelphia, PA 19103

856-813-5500

FAX Number 856-813-5501

THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE  
FOR REGISTERED HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES  
2004-13

In Re:

JACINTO E. GUAMAN

Debtors

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
TRENTON VICINAGE

Chapter 13

Case No. 19-30092 - MBK

Hearing Date: 01/08/2020

The undersigned, Phelan Hallinan Diamond & Jones, PC, attorneys for Secured Creditor,  
THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE  
FOR REGISTERED HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES  
2004-13, the holder of a Mortgage on debtors residence located at 1019 OCEAN ROAD, POINT  
PLEASANT, NJ 08742-2354 hereby objects to the Confirmation of the debtors proposed Chapter  
13 Plan on the following grounds:

1. Movant is in the process of drafting and filing a Proof of Claim. The approximate arrears are \$66,681.17.

2. Debtors' Plan fails to cure the delinquency pursuant to 11 U.S.C. §1322(b)(5).

3. Debtors' plan provides for monthly post-petition mortgage payment of \$2,940.35 to Movant each month. Movant objects to this payment amount, as the correct post-petition mortgage payment amount due under the terms of the note and mortgage is \$2,963.59 (\$2,336.51 principal/interest + \$627.08 escrow). Confirmation of Debtors' plan

should be denied because the proposed payment amount is substantially lower than the actual post-petition payment amount.

WHEREFORE, THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR REGISTERED HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-13 respectfully requests that the Confirmation of Debtors Plan be denied.

/s/ Robert J. Davidow  
Robert J. Davidow, Esq.  
Phelan Hallinan Diamond & Jones, PC  
1617 JFK Boulevard, Suite 1400  
Philadelphia, PA 19103  
Tel: 856-813-5500 Ext. 47960  
Fax: 856-813-5501  
Email: Robert.Davidow@phelanhallinan.com

Dated: December 4, 2019

# EXHIBIT A

**STATISTICAL INFORMATION ONLY: Debtor must select the number of each of the following items included in the Plan.****0** Valuation of Security**0** Assumption of Executory Contract or Unexpired Lease**0** Lien Avoidance

Last revised: September 1, 2018

**UNITED STATES BANKRUPTCY COURT**  
**District of New Jersey**

In Re: **Jacinto E. Guaman**

Case No.:

**19-30092-MBK**

Judge:

**Michael B. Kaplan**

Debtor(s)

**CHAPTER 13 PLAN AND MOTIONS**

 Original Modified/Notice Required

Date:

November 19,  
2019 Motions Included Modified/No Notice Required

**THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE.**

**YOUR RIGHTS MAY BE AFFECTED**

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the *Notice*. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the *Notice*. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

**The following matters may be of particular importance. Debtors must check one box on each line to state whether the plan includes each of the following items. If an item is checked as "Does Not" or if both boxes are checked, the provision will be ineffective if set out later in the plan.**

**THIS PLAN:**

DOES  DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

DOES  DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

DOES  DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY

SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

Initial Debtor(s)' Attorney JIW Initial Debtor: JEG Initial Co-Debtor \_\_\_\_\_

### Part 1: Payment and Length of Plan

- a. The debtor shall pay 1,287.62 Monthly to the Chapter 13 Trustee, starting on November 1, 2019 for approximately 60 months.
- b. The debtor shall make plan payments to the Trustee from the following sources:
- Future Earnings  
 Other sources of funding (describe source, amount and date when funds are available): **Rental income to be applied towards Chapter 13 Plan. Prorated tax refunds to be applied towards Chapter 13 Plan.**
- c. Use of real property to satisfy plan obligations:
- Sale of real property  
Description:  
Proposed date for completion: \_\_\_\_\_
- Refinance of real property:  
Description:  
Proposed date for completion: \_\_\_\_\_
- Loan modification with respect to mortgage encumbering property:  
Description:  
Proposed date for completion: \_\_\_\_\_
- d.  The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.
- e.  Other information that may be important relating to the payment and length of plan:

### Part 2: Adequate Protection

**NONE**

- a. Adequate protection payments will be made in the amount of \$\_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_ (creditor).
- b. Adequate protection payments will be made in the amount of \$\_\_\_\_ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: \_\_\_\_ (creditor).

### Part 3: Priority Claims (Including Administrative Expenses)

- a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
<b>Ernestine Guaman</b>	<b>Domestic support obligations</b>	<b>0.00</b>

- b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:  
Check one:

None

The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
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#### Part 4: Secured Claims

##### a. Curing Default and Maintaining Payments on Principal Residence: NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
<b>Carrington Mortgage Services LLC</b>	<b>1019 Ocean Road Point Pleasant, NJ 08742 Ocean County purchased October 29, 2004 \$340,000, Block 124 Lot 16; fair market value \$325,000</b>	<b>67,733.96</b>	<b>0.00</b>	<b>67,733.96</b>	<b>2,940.35</b>

##### b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
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##### c. Secured claims excluded from 11 U.S.C. 506: NONE

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation
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##### d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments NONE

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under this section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to Be Paid
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2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**e. Surrender  NONE**

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C. 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
Ocean Medical Center	629-631 North Manetta Drive Point Pleasant, NJ 08742 Ocean County purchased July 16, 2007 \$340,000, Block 131 Lot 5	230,000.00	0.00
Paula H. Yarusi & Jean Lucy	629-631 North Manetta Drive Point Pleasant, NJ 08742 Ocean County purchased July 16, 2007 \$340,000, Block 131 Lot 5	230,000.00	0.00
Select Portfolio Servicing	629-631 North Manetta Drive Point Pleasant, NJ 08742 Ocean County purchased July 16, 2007 \$340,000, Block 131 Lot 5	230,000.00	0.00

**f. Secured Claims Unaffected by the Plan  NONE**

The following secured claims are unaffected by the Plan:

Creditor

**g. Secured Claims to be Paid in Full Through the Plan  NONE**

Creditor	Collateral	Total Amount to be Paid through the Plan
Ocean Medical Center	1019 Ocean Road Point Pleasant, NJ 08742 Ocean County purchased October 29, 2004 \$340,000, Block 124 Lot 16; fair market value \$325,000	1,797.52

**Part 5: Unsecured Claims  NONE**

**a. Not separately classified** allowed non-priority unsecured claims shall be paid:

- Not less than \$\_\_\_\_ to be distributed *pro rata*
- Not less than 0 percent
- Pro Rata* distribution from any remaining funds

**b. Separately classified unsecured** claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
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**Part 6: Executory Contracts and Unexpired Leases  NONE**

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment
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#### Part 7: Motions NONE

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation* must be filed with the Clerk of Court when the plan and transmittal notice are served.**

##### a. Motion to Avoid Liens under 11 U.S.C. Section 522(f). NONE

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided
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##### b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured.

**NONE**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified
-NONE-						

##### c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. NONE

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
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#### Part 8: Other Plan Provisions

##### a. Vesting of Property of the Estate

- Upon Confirmation
- Upon Discharge

**b. Payment Notices**

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Standing Trustee shall pay allowed claims in the following order:

- 1) Ch. 13 Standing Trustee Commissions
- 2) Other Administrative Claims
- 3) Secured Claims
- 4) Lease Arrearages
- 5) Priority Claims
- 6) General Unsecured Claims

**d. Post-Petition Claims**

The Standing Trustee  is,  is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**Part 9: Modification  NONE**

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being modified: October 24, 2019.

Explain below <b>why</b> the plan is being modified:	Explain below <b>how</b> the plan is being modified:
Change in financial circumstances, reduction in employment hours and employment income. Surrender non-residential property interest 629-631 North Manetta Drive Point Pleasant, NJ	Modification of Chapter 13 Plan to surrender non-residential property interest 629-631 North Manetta Drive Point Pleasant, NJ and reduction in employment income.

Are Schedules I and J being filed simultaneously with this Modified Plan?

Yes

No

**Part 10 : Non-Standard Provision(s): Signatures Required**

Non-Standard Provisions Requiring Separate Signatures:

NONE

Explain here:

Any non-standard provisions placed elsewhere in this plan are ineffective.

**Signatures**

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

By signing and filing this document, the debtor(s), if not represented by an attorney, or the attorney for the debtor(s) certify that the wording and order of the provisions in this Chapter 13 Plan are identical to *Local Form, Chapter 13 Plan and Motions*, other than any non-standard provisions included in Part 10.

I certify under penalty of perjury that the above is true.

Date: November 19, 2019

/s/ Jacinto E. Guaman

Jacinto E. Guaman

Debtor

Date:

Joint Debtor

Date November 19, 2019

/s/ Joseph I. Windman, Esq.  
Joseph I. Windman, Esq. (JIW7236)  
Attorney for the Debtor(s)

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR 9004-1(b)**

832978

Phelan Hallinan Diamond & Jones, PC

1617 JFK Boulevard, Suite 1400

Philadelphia, PA 19103

856-813-5500

Attorneys for THE BANK OF NEW YORK MELLON,  
F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR  
REGISTERED HOLDERS OF CWABS, INC., ASSET-  
BACKED CERTIFICATES, SERIES 2004-13

In Re:

Jacinto E. Guaman

Case No: 19-30092 - MBK

Hearing Date: \_\_\_\_\_

Judge: MICHAEL B KAPLAN

Chapter: 13

**CERTIFICATION OF SERVICE**

1. I, Kevin Luber:

represent the \_\_\_\_\_ in the above-captioned matter.

am the secretary/paralegal for Phelan Hallinan Diamond & Jones, PC, who represents THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR REGISTERED HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-13 in the above captioned matter.

am the \_\_\_\_\_ in the above case and am representing myself.

2. On December 4, 2019 I sent a copy of the following pleadings and/or documents to the parties listed below:

Objection to Plan

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: December 4, 2019

/s/ Kevin Luber  
Kevin Luber

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
JACINTO E. GUAMAN 1019 OCEAN ROAD, POINT PLEASANT, NJ 08742-2354	DEBTOR	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
JOSEPH I WINDMAN, ESQUIRE 4400 ROUTE 9 SOUTH SUITE 3000 FREEHOLD, NJ 07728	DEBTOR'S ATTORNEY	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
ALBERT RUSSO, TRUSTEE CN4853 TRENTON, NJ 08650-4853	TRUSTEE	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)

\* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.